

REMARKS

The present amendment is responsive to the Office Action of January 29, 2004.

The allowability of Claims 20-23, with Claim 20 placed in independent form, is appreciated. Claim 20 is now amended to incorporate its parent Claim 1. Claims 20-23 are believed to be allowable.

Regarding the rejection of Claims 1-25 under Sec. 112, Claims 1, 3 and 12 are amended to define novel structural features and their cooperation with somewhat more clarity. It is believed that such amendments overcome the Sec. 112 rejections.

Claims 1-3 and 5-7 were rejected under 35 USC 102 on Swank '041; Claims 1-19 and 24-25 were rejected under 35 USC 103 on Ballies '690 in view of the Darling publication and Alspector '560 or VanVlasselaer '687. The Examiner pointed out certain features of the respective references.

None of the cited prior art, singly or combined, discloses or suggests Applicant's claimed combinations.

It is respectfully urged that Applicant's claims define patentable subject matter in defining combinations wherein a specimen of predetermined size, accurately predetermined by an air pocket, is provided for removal from a bottom portion of a tube without disturbing or utilizing any other components or features of the tube. Such specimen defined by an air pocket is set forth in respective claims.

Claims 6, 11, 15 and 19, rejected under Sec. 112, specify the simplified operation of components to mix liquid and sediment by operation of a separator and air pocket created thereby. These claims define the cooperation of components in automatically mixing liquid and sediment during centrifuging. It is believed that the manner in which the air pocket defines the volume of a specimen to be expressed is clarified by the present amendment.

Regarding the rejection under Sec. 102 of Claims 1-3 and 5-7 on the Swank reference, Applicant urges that these claims are not at all anticipated or suggested by Swank. There is no disclosure or suggestion in Swank of Applicant's separator 30,

which has a reduced cross-section lower portion defining a passage through which centrifuged liquid passes to provide and define a specimen of predetermined volume defined below the lower end of the separator and by the bottom portion 22 of the tube 12, referring to Fig. 2 of Applicant's drawings.

It would therefore not be at all obvious to one skilled in the art in view of Swank to provide Applicant's claimed arrangement.

Regarding the rejection of Claims 1-19 and 24-25 on Ballies in view of the Darling publication, the Alspector patent or the Van Vlasselaer patent, nothing in these references, singly or combined, makes obvious or suggests Applicant's above discussed claimed arrangement which provides an accurate specimen between a lower reduced portion 22 of the tube and the lower reduced end portion of the separator.

Referring to Fig. 2 of Applicant's drawings, an air pocket 37 is created below the separator by passage of liquid through passage 24 to a level wherein it creates the air pocket 37, as shown and described in Applicant's specification. After centrifuging, the air pocket 37 is automatically maintained.

Sediment continues to pass via the separator and displaces urine, etc. which moves upwardly via passage 32 of the separator 30. Heavier sediment first fills the bottom of the tube, displacing urine or the like, and passes upwardly through the separator passage, being lighter in weight.

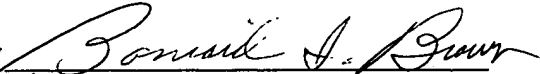
In practice, the tube is sealed and is not re-opened, in contrast with the prior art. Urine, etc. is not splattered about upon removal of a stopper from the pipette. The tube is not shaken or tapped before squeezing a portion of the tube to permit a specimen to be dropped from the pipette passage, with urine and sediment particles in correct proportions for examination.

It is respectfully urged that the claims as now presented in the application are allowable, and allowance thereof is respectfully solicited.

It is submitted that the foregoing is fully responsive to the Office Action of January 20, 2004. It is believed that Claims 1-25 are allowable and that the application is in condition for allowance. A Notice of Allowance is respectfully solicited.

Respectfully submitted,

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